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TAGS: [KDEM](#) [PREL](#) [PGOV](#) [PHUM](#) [KE](#)
SUBJECT: GOVERNMENT REFORMS FALTERING, KENYAN CIVIL SOCIETY
TELLS SENATOR OBAMA

REF: A. NAIROBI 3824
[1](#)B. NAIROBI 3679

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[1](#)1. (SBU) Summary and Comment: In a series of meetings on August 28 in Nairobi, leaders of Kenyan civil society and government oversight organizations highlighted for visiting Senator Obama the Kenyan government's faltering performance on human rights, corruption, and governance, while ably demonstrating the strength of Kenyan civil society. Participants also noted the government's efforts to discredit its most vocal critics. Recent targets are the Chair of the Electoral Commission (accused of being partisan), and the Chair of the National Human Rights Commission (the subject of a probe into alleged financial improprieties, Ref. B). Following the meetings, in his televised address, the Senator highlighted the importance of Kenya's civil society leaders (Ref. A), elevating the profile of the individuals named, and hopefully making government hatchet jobs more difficult. End Summary and Comment.

Human Rights: Room for Improvement, Need U.S. Leadership

[1](#)2. (SBU) Six of Kenya's most prominent human rights activists expressed to Senator Obama on August 28 their frustration with continued human rights abuses in the country, particularly at the hands of the police. The activists -- leaders of the government Human Rights Commission, and five non-governmental organizations, focusing on women's and children's as well as Muslim rights -- urged the Senator to take a firm stand on corruption. They noted that poor political accountability, as well as ethnic polarization in the country, are fueling human rights abuses. Although the current government came in with great promise, it is losing focus on its reform agenda. Unprotected by an "opaque" police force, women and children are particularly vulnerable as victims of sexual abuse and trafficking, and have no access to the justice system.

[1](#)3. (SBU) The activists, however, also said there is a need for greater leadership on respect for rights from the United States, citing U.S. pressure on Kenya to sign an Article 98 agreement, and the perceived singular American focus on combating terrorism: "You ask for openness and transparency,

so do the same." In particular, they alleged "torture" of Kenyan Muslims, primarily in the coastal region, at the hands of "white FBI agents." The Ambassador, also present, stated that he would be the first to denounce such behavior, if it had, in fact, taken place. He agreed with the Senator that participating in a working group organized by local human rights organizations would be a useful venue for correcting misperceptions and fostering good-will.

Anti-Corruption Watchdogs See Through "Reforms"

14. (SBU) Separately, representatives of democracy and governance watchdog organizations told Senator Obama that the initial high hopes which the Kibaki administration generated on corruption and good governance have evaporated. Efforts initially seen as progressive and reform-minded, including the incorporation into government of several prominent civil society leaders, are now seen as efforts to discredit, weaken, and silence potential critics. The participants agreed that too many "anti-corruption" institutions and mechanisms were created, with competing jurisdiction and mandates. The result: no one is ever held accountable. Corruption court cases are delayed indefinitely due to lack of enforcement ability and redundant specially-convened commissions of inquiry which are designed to delay and obfuscate. Months to years later when the commissions finally produce watered-down findings, public fatigue with the whole process allows them to get away with "frying a few small fish while the big fish swim free."

15. (SBU) Realizing that Kenya's elected leaders had "failed" the people, several participants suggested working bottom up instead -- increase citizen participation and empower Kenyans

to better criticize the government's agenda and performance. Participants agreed with Ambassador Ranneberger's comment on the need to educate the people about the nexus between economic corruption and their own poverty. Offering his support for their continued efforts, the Senator invited Kenyan civil society to help identify ways in which the U.S. could be most effective in assisting their efforts, without undermining the credibility of their initiatives.

Electoral Commission: Plagued by Politics

16. (SBU) In a meeting significant for its visibility, Senator Obama gave the Electoral Commission of Kenya (ECK) a much-needed boost at a time when its Chairman, Samuel Kivuitu, has been the subject of media reports suggesting his arrest is imminent. Although not formalized in law, it has been past practice, Kivuitu explained, for the government to appoint commissioners who are both pro-government and nominated by the opposition for a total of 22. With the terms of 10 "opposition" commissioners coming to an end, and no indication from the government that it will appoint "opposition" replacements, Kivuitu expressed his concern that the ECK would no longer be seen as a balanced organization. Although administratively prepared for the 2007 general elections, the Chairman worried that politics would create perceptions of bias and ultimately undermine the ECK's credibility. The Senator recognized the Commission's exceptional work during the 2005 constitutional referendum and 2002 election, and inquired what, building on the already strong relationship between the ECK and USAID, the U.S. government could do to support the Commission. Kivuitu appreciated the Senator's visit, adding that support from the diplomatic community has given the Commission the confidence to do its job.

17. (U) CODEL Obama has cleared this message.
RANNEBERGER